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NOTE BY THE SECRETARY-GENERAL

The Secretary-General has the honour to transmit to the members of the Security Council the attached communication, dated 13 October 1997, which he has received from the Director General of the International Atomic Energy Agency (IAEA), Dr. Hans Blix.

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Annex

Letter dated 13 October 1997 from the Director General of the International Atomic Energy Agency addressed to the Secretary-General

I wrote to your predecessor on 31 October 1996 (see S/1996/906, annex) about the then most recent developments in safeguards implementation in the Democratic People's Republic of Korea and related matters. In the light of my written report about the Democratic People's Republic of Korea (GC(41)/17 of 18 August 1997) to the General Conference of the International Atomic Energy Agency (IAEA) forty-first regular session and resolution GC(41)/RES/22 adopted at that time, I think it timely to bring you up to date with the most recent developments. I enclose copies of the two General Conference documents to which I have referred.

As foreshadowed in my letter of 31 October 1996, a seventh round of technical discussions took place in Pyongyang from 20 to 24 January 1997. Again, no progress was made about the preservation of information or on key technical measures such as taking measurements of liquid wastes at the reprocessing plant of the Democratic People's Republic of Korea to verify that there is no movement or any operation involving such wastes. Against this background, I reported to the Agency's Board of Governors, on 11 June 1997, that the safeguards implementation report for 1996 recorded the continuing inability of the Agency to verify the correctness and completeness of the initial declaration of the Democratic People's Republic of Korea and hence our inability to conclude that there had been no diversion of nuclear material.

You will see from my written report in document GC(41)/17 that, at the time of the 1997 General Conference, there had been no new developments that would have led us to change the above assessment. I also noted, however, that the Democratic People's Republic of Korea had repeatedly linked progress in their technical talks with the Agency to progress in the implementation of the Agreed Framework. The Agency Secretariat is accordingly of the view that the ground breaking at the light water reactor site should have meaningful impact.

In the light of the information given above and of the further details in my report to the General Conference about Agency activities in the Democratic People's Republic of Korea, the General Conference, at its forty-first regular session, adopted resolution GC(41)/RES/22. In that resolution, as in resolution GC(40)/RES/4 of 1996, the General Conference, inter alia, expressed its concern over the continuing non-compliance of the Democratic People's Republic of Korea with its safeguards agreement, urged the Democratic People's Republic of Korea to cooperate fully with the Agency in the implementation of that agreement, and urged the Democratic People's Republic of Korea also to take all steps the Agency might deem necessary to preserve all information relevant to verifying the accuracy and completeness of the initial declaration of the Democratic People's Republic of Korea. The General Conference also decided to remain seized of the matter.

There is now a subsequent development to report. After informal consultations in September, an eighth round of technical discussions between representatives of the Democratic People's Republic of Korea and the Agency technical team is now scheduled to take place at Vienna in the week of 20 October 1997. It is to be hoped that this further meeting will result in progress on key outstanding issues, particularly with regard to the preservation of information. We will again make clear to representatives of the Democratic People's Republic of Korea that, in the absence of prompt agreement about the measures required to preserve the relevant information, any possibility for the Agency to verify the initial declaration in the future - already diminished, as you may remember, because of the discharge of fuel rods from the 5 MWe reactor in May 1994 without the safeguards measures required by the Agency - might be lost.

I should be grateful if you would bring this letter and its enclosures to the attention of the Security Council, to which I will continue to report further developments.

(Signed) Hans BLIX

Appendix I

Implementation of the agreement between the Agency and the Democratic People's Republic of Korea for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons

Report by the Director General to the General Conference

1. In resolution GC(40)/RES/4 of 20 September 1996, the General Conference, inter alia, decided:

> "to include in the agenda for its forty-first regular session an item entitled 'Implementation of the agreement between the Agency and the Democratic People's Republic of Korea for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons'."

This report is prepared to provide information to the General Conference in its consideration of this item of its agenda.

THE SITUATION PREVAILING WITH REGARD TO SAFEGUARDS IMPLEMENTATION IN THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA AT THE TIME OF THE FORTIETH REGULAR SESSION OF THE GENERAL CONFERENCE

2. The Director General's report to the General Conference in 1996, in document GC(40)/16 of 20 August 1996, gave the background to the developments which had taken place during the previous year in safeguards implementation in the Democratic People's Republic of Korea pursuant to the Safeguards Agreement of the Democratic People's Republic of Korea with the Agency (INFCIRC/403) and described those developments. They included the resumption of ad hoc and routine inspections (required by the Safeguards Agreement), as of March 1996, but only at facilities not subject to the freeze; the start in April 1996 of operations on the canning of the spent fuel rods at the 5 MWe Experimental Power Reactor; the verification of these rods by the Agency inspectors by measurement which, however, did not provide any information about the total amount of plutonium contained in the irradiated fuel rods; the initial discussion in June 1996 about the Agency paper, provided in September 1995, on the preservation of information which must remain available to enable the Agency to verify in the future the correctness and completeness of the initial declaration of the Democratic People's Republic of Korea under its Safeguards Agreement; the provision by the Democratic People's Republic of Korea in June 1996 of its proposal on preservation of information, which, however, covered only facilities already being inspected by the Agency and not other facilities and locations, and did not cover all the information required and did not include measures for the preservation of such information.

3. The report last year referred to the further technical discussions between the Agency and the Democratic People's Republic of Korea, which were scheduled for September 1996 in Vienna, but had not yet taken place by the time of the 1996 General Conference. The report in GC(40)/16 recorded that, while the initial technical discussions resulted in some progress in certain areas, the

Democratic People's Republic of Korea had continued to decline a number of important measures which had been left open since the first technical meeting.

4. In the light of this and of the Director General's report in document GC(40)/16, the General Conference adopted resolution GC(40)/RES/4. By that resolution, the General Conference, inter alia, strongly endorsed the actions and commended the efforts taken by the Secretariat to implement the Safeguards Agreement and to monitor the freeze in the Democratic People's Republic of Korea; it also expressed concern over the continuing non-compliance of the Democratic People's Republic of Korea with its Safeguards Agreement, called upon the Democratic People's Republic of Korea to fully comply with the Safeguards Agreement and urged it to cooperate fully with the Agency in the implementation of that Agreement.

DEVELOPMENTS OVER SAFEGUARDS IMPLEMENTATION IN THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA SINCE THE FORTIETH REGULAR SESSION OF THE GENERAL CONFERENCE

5. At the meeting of the Agency Board of Governors on 3 December 1996, the Director General reported on the sixth round of technical discussions between IAEA and the Democratic People's Republic of Korea which took place at Vienna from 23 to 27 September 1996. The Director General noted that, regrettably, no progress was made on important issues such as the preservation of information; and that, in the light of this situation, he had informed the Security Council of the United Nations on 7 November 1996 that the Agency could provide any assurance that the required information was actually being preserved.

6. At the meeting of the Board of Governors on 17 March 1997, the Director General reported that the seventh round of technical discussions, which took place from 20 to 24 January 1997 at Pyongyang, also gave meagre results. No progress was made regarding the preservation of information, or on the issue of the reprocessing plant where the Democratic People's Republic of Korea continued to decline to accept measures such as the measurement of liquid wastes to verify that there is no movement or any operation involving such wastes. The Democratic People's Republic of Korea was of the view that the Agency requirements were "excessive" and not in line with the progress in the implementation of the Agreed Framework between the United States of America and the Democratic People's Republic of Korea. The Director General informed the Board that the Agency inspectors remained on a continuous basis in the Nyongbyon area to monitor the freeze of operations at technical buildings where the Agency was implementing its verification measures and visits periodically. Such buildings were at the sites of the reprocessing plant, the fuel fabrication plant, the 5 MW reactor and the two larger 50 MW and 200 MW reactors, which had been under construction at the time of the freeze. He also said that about 60 per cent of the spent fuel rods at the 5 MWe reactor had been canned, but that the operation would not be completed before summer 1997, and that until that time there continued to be a need for three-four inspectors at Nyongbyon.

7. At the meeting of the Board of Governors on 11 June 1997, the Director General underlined that the safeguards implementation report for 1996 reported the continuing inability of the Agency to verify the correctness and completeness of the initial declaration of the Democratic People's Republic of Korea and the Agency's inability to conclude that there has been no diversion of

nuclear material. The Director General reiterated the lack of progress on important issues and said that no dates had been fixed for the next round of technical discussions.

8. As of the date of this report there have been no new developments to alter the assessments of March and June. As progress in discussions has been repeatedly linked by the Democratic People's Republic of Korea with progress in the implementation of the Agreed Framework, e.g., the ground breaking at the light water reactor site, the Secretariat is of the view that a meaningful meeting of the technical teams will not occur until after such an event.

9. Regrettably, there continues to exist a fundamental difference of view between the Agency and the Democratic People's Republic of Korea regarding the current status of the Safeguards Agreement. The Democratic People's Republic of Korea regards acceptance of measures required to enable the Agency to monitor the freeze as being solely within the context of the Agreed Framework rather than as part of the implementation of the Safeguards Agreement. The Agency regards the Safeguards Agreement with the Democratic People's Republic of Korea as binding and in force. The Democratic People's Republic of Korea has indicated that until a significant portion of the light water project is completed, but before delivery of key nuclear components, the Agency can carry out ad hoc and routine inspections under the Safeguards Agreement only at facilities not covered by the freeze. In this context, since 1996, the Democratic People's Republic of Korea had permitted ad hoc inspections at the locations outside facilities, which contain small quantities of nuclear material, in addition to inspections at facilities not subject to the freeze.

10. Cooperation from the Democratic People's Republic of Korea side remains limited. The Democratic People's Republic of Korea has accepted some verification activities, such as containment and surveillance measures which the Agency needs to carry out to monitor the freeze, but has declined other measures, such as the installation of Agency monitoring equipment at nuclear waste tanks or any sampling or measurements by the Agency at any location in the reprocessing plant and others as indicated in the text above. Moreover, the Democratic People's Republic of Korea declined measurements for assessing the total amount of plutonium in spent fuel rods from the 5 MWe reactor of the Democratic People's Republic of Korea.

11. Also, it has become apparent over the last 12 months that there are differences between the Agency and the Democratic People's Republic of Korea interpretations regarding the conditions of the freeze for the 5 MWe reactor, the fabrication plant and the reprocessing plant. The issue concerns access by inspectors for visiting from time to time technical buildings, at a particular facility site, which were not placed under the freeze in November 1994 because the Democratic People's Republic of Korea had stated at that time that they had changed their scope of operations. The Agency has been of the view that such visits are required for monitoring the freeze of the nuclear programme involving the graphite moderated reactors and related facilities. The procedures agreed with the Democratic People's Republic of Korea foresee visits of technical buildings which have changed their scope of operations. Monitoring the freeze without such visits would be limited to only certain buildings where Agency safeguards measures, including inspections, are applied. The Democratic

People's Republic of Korea stated that it had agreed to freeze technical buildings which are directly related to the nuclear programme, but not those buildings which are indirectly related to the programme. Therefore, the Democratic People's Republic of Korea could consider access for visits by Agency inspectors only on the basis of a case-by-case request by the Agency, but not as a right of the inspectors. The issue remains, so far, unresolved.

12. During 1997, there has been improvement in the means of communication between Agency inspectors in the Democratic People's Republic of Korea and Agency headquarters as well as between the Departments of Safeguards of the General Department of Atomic Energy of the Democratic People's Republic of Korea and of the Agency. The Democratic People's Republic of Korea has also accepted the designation of additional inspectors.

13. Furthermore, in January 1997, the Democratic People's Republic of Korea clarified that the nuclear graphite which was manufactured for use at the 50 MWe power reactor was subject to monitoring by the Agency. About half of the required graphite blocks were presented to the Agency and it was stated that manufacturing of such blocks and other nuclear-related equipment and components had been stopped since July 1993. This statement awaits formal confirmation by the Democratic People's Republic of Korea.

14. The canning operation for the irradiated fuel rods from the 5 MWe reactor, which started in April 1996, is about 90 per cent complete. The rods have been placed in containers which are now under Agency seals, supplementing the existing surveillance. The rest of the rods, mainly in dry storage, are expected to be placed in containers later in the year. Normally, four inspectors are continuously present in the Nyongbyon area and are being rotated every few weeks. When the canning operation is completed, at least two inspectors will remain in Nyongbyon to continue carrying out the required activities.

Appendix II

Implementation of the agreement between the Agency and the Democratic People's Republic of Korea for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons

Resolution adopted on 3 October 1997 during the ninth plenary meeting

IMPLEMENTATION OF THE AGREEMENT BETWEEN THE AGENCY AND THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA FOR THE APPLICATION OF SAFEGUARDS IN CONNECTION WITH THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS

The General Conference,

(a) Recalling the Board of Governors' resolutions GOV/2436 of 25 February 1993, GOV/2639 of 18 March 1993, GOV/2645 of 1 April 1993, GOV/2692 of 23 September 1993, GOV/2711 of 21 March 1994 and GOV/2742 of 10 June 1994 and General Conference resolutions GC(XXXVII)/RES/624 of 1 October 1993, GC(XXXVIII)/RES/16 of 23 September 1994, GC(39)/RES/3 of 22 September 1995 and GC(40)/RES/4 of 20 September 1996,

(b) Noting the Director General's report contained in document GC(41)/17,

(c) Recalling further resolution 825 (1993) adopted by the Security Council of the United Nations on 11 May 1993 and the 31 March 1994, 30 May 1994 and 4 November 1994 statements by the President of the United Nations Security Council, particularly the request to take all steps the Agency may deem necessary to verify full compliance by the Democratic People's Republic of Korea (DPRK) with its safeguards agreement with the Agency,

(d) Noting that the Democratic People's Republic of Korea has decided to remain a party to the Treaty of the Non-Proliferation of Nuclear Weapons and reaffirming that the IAEA-Democratic People's Republic of Korea safeguards agreement (INFCIRC/403) under the Treaty remains binding and in force,

(e) Noting also the stated intention of the Democratic People's Republic of Korea to come into full compliance with the safeguards agreement and the continuing IAEA-Democratic People's Republic of Korea discussions on outstanding safeguards issues,

(f) Noting with regret that in these discussions no progress has been made on important issues such as the preservation of information, and

(g) Regretting the withdrawal of the Democratic People's Republic of Korea from the Agency and expressing the hope that the Democratic People's Republic of Korea will rejoin,

1. Strongly endorses actions taken by the Board of Governors and commends the Director General and the Secretariat for their impartial efforts to implement the IAEA-Democratic People's Republic of Korea safeguards agreement;

2. Commends the Secretariat for its efforts to monitor the freeze of specified facilities in the Democratic People's Republic of Korea as requested by the United Nations Security Council;

3. Expresses concern over the continuing non-compliance of the Democratic People's Republic of Korea with the IAEA-Democratic People's Republic of Korea safeguards agreement and calls upon the Democratic People's Republic of Korea to comply fully with that safeguards agreement;

4. Urges the Democratic People's Republic of Korea to cooperate fully with the Agency in the implementation of the safeguards agreement and to take all steps the Agency may deem necessary to preserve all information relevant to verifying the accuracy and completeness of the Democratic People's Republic of Korea's initial report on the inventory of nuclear material subject to safeguards until the Democratic People's Republic of Korea comes into full compliance with its safeguards agreement; and

5. Decides to remain seized of this matter and include in the agenda for its forty-second regular session an item entitled "Implementation of the agreement between the Agency and the Democratic People's Republic of Korea for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons."